

March 16, 2009

Dear Members of the Senate Agriculture Committee:

My name is Troy Roush and I'm a fifth generation farmer from Central Indiana. I farm with my two brothers and father on a 5,500 acre corn, soybean, wheat and tomato farm. I also serve as Vice President of the American Corn Growers Association.

I'm submitting my testimony today in support of HB 445. HB 445 is very similar to legislation enacted in my home state in 2002 and 2003; this legislation was put into place largely because of the injustice done to my family and other farm families. The Indiana legislation was hard fought and if not for the courage of two legislators Indiana farmers would not enjoy the protections they have today. I'm sure this committee is facing those same challenges and pressures; I assure you your support of HB 445 is the right thing to do.

To tell my family's story as briefly as possible in the spring of 2000 Monsanto falsely accused my family of two counts of patent infringement and breach of contract. The patent infringement claims were based on Monsanto's patents on Roundup Ready soybeans; Monsanto was in effect accusing my family of saving and replanting their patented seed. The breach of contract claim was based on four grower agreements, which Monsanto's attorneys attached to the complaint. All four of the grower agreements in my family's case were in fact forged. We were able to track down the individual that forged our name, depose that individual and they admitted to forging those documents under oath. This is not unusual; many grower agreements have been forged over the years.

The patent infringement is not nearly as cut and dried because like farmers have done for 10,000 years we were in fact saving, cleaning and replanting our own seed from previous crop. However, we were not saving and cleaning patented seeds. We were also at the same time growing patented seeds acquired from a licensed distributor. There is no way to tell the two apart with the naked eye.

Monsanto's experts claimed to have come upon our land and sampled our crop. We never gave permission for them to be there and I do not see why or how Monsanto's property rights should supersede my family's. Monsanto in fact trespassed upon my family in an effort to see if my family was trespassing upon Monsanto. However what troubles me more is that it took over a year and a half to obtain the test results that proved my family had in fact not violated Monsanto's patents in the first place. Monsanto's own DNA testing proved we had not violated their patents. If my family had been notified and split or duplicate samples had been taken my family could have avoided two years of hell and nearly \$400,000 in attorney bills caused by the incompetence of Monsanto's experts.

The lawsuit between my family and Monsanto was settled out of court, neither my family nor Monsanto admitted any liability.

This year 70% of our soybean acres will be identity preserved non-GMO, we will enjoy a nearly 20% premium for growing these beans. I could not nor would not grow these beans if it were not for the protection Indiana law offers me. Simple fact is one patented seed growing in a field could make a farmer liable for patent infringement. Its makes no difference how that seed got there or if the farmer wants that seed. Which in my case I do not!

In the interest of brevity I will stop, but would be happy to answer any questions you may have of me in the future. My phone is 765-206-0884 or email tdr@citznet.com

Thank you,

Troy Roush

March 16, 2009

Dear Members of the Senate Agriculture Committee:

My name is Rodney Nelson and I am a farmer from North Dakota. Before I get into my story I would like to thank you for your interest in this extremely important matter. Also I am sorry I was not able to attend your hearing in person, so I hope this letter will suffice. There is so many horrific details about this case I could write a book that would astound you, but I will try and keep this short.

A few years back a law was passed in North Dakota that was dubbed the Nelson bill, and yes, I and my family were the inspiration for the bill. In 1999 I and my family were falsely accused by Monsanto Corporation of saving soybean seed from our 1998 harvest and replanting it in 1999. Under the new seed patents this practice is now illegal in the United States. Without any presented or substantiated evidence or any real attempt to look over our records with us they filed a lawsuit against us in the Federal court of Missouri for patent infringement, unjust enrichment, among other ridiculous things I have since forgotten. What was to follow was a two year living hell that nearly killed my father and has forever left scars in us that I don't think will ever heal. Needless to say my heart still pounds hard with fury at the mention of Monsanto. You see when Monsanto sues a farmer they sue for the entire gross value of your crop times three, plus punitive damages, plus attorney fees which they seem to like to round off at \$1,000,000.00. Of course there probably isn't a farm in the country that could survive that kind of a loss. Most farmers bow under the pressure of mounting legal bills and eventually cave into an out of court settlement, of course this comes with a gag order that the farmer can never speak of the entire incident to anyone ever, but Monsanto is free to parade your name around as an example to scare other farmers into never saving seed. For a copy of one such letter go to my website (nelsonfarm.net) there you can read in depth articles about our ordeal and others.

Because we were innocent and infuriated over the accusations we went very public over the ordeal because we felt a sense of responsibility to alert others of this company's activities. We were not about to let this company extract one damn nickel from us at any cost. Our attention then turned to their bogus so-called investigation. In the end this proved the need for a law that was simply designed to force Monsanto and other patent holders to be honest and to afford an unsuspecting farmer some basic rights to a fair investigation. As we with the help of a high powered law firm were about to file a lawsuit against Monsanto they quickly came to terms and dropped all charges against us and dismissed the case. Had we not had the resources to fight them you can imagine where this could have ended. All of this could have been avoided if an honest, open, above board investigation would have been done in the first place, but it was obvious to us this was never their intention. With the knowledge I have of their tactics there are a few actually small but very important changes that must be made to this bill in order for you to accomplish your objective. I would be happy to discuss this with any of you via phone @ 701-347-5456.

Sincerely,
Rodney Nelson
15549 27th St SE
Amenia, ND 58004

March 17, 2009

Dear Chairman and Members of the Montana Senate Agriculture Committee:

I am a farmer in Indiana and in July of 2004 two men appeared at my home unannounced. Their first question was, "We would like to ask you a few questions about your farming operation." They presented me with a card, "McDowell & Associates, LTD." On the card it stated "Providing Actionable information and real life solutions." They did not tell me they were investigators from Monsanto or subcontracted by same. I did not answer all of their questions.

On November 19, 2004 I received a letter from Monsanto's attorney giving me 7 days to send my production records to him.

I kept wondering, why are they after me? I do not plant or use any of their products and have not signed a Monsanto Technology agreement (seed contract). Thankfully Indiana has a seed contract law in force and it states that my trial would be in my Federal Court district, and I would not have to go to St. Louis, Monsanto's home state. I hired a criminal attorney within walking distance of the Federal Court House here in Fort Wayne.

We sent letters giving some information and wanting to know why they pursued me. Finally Monsanto's attorney threatened me with an agreement between his client "Monsanto" & the Indiana Dept of agriculture to search my land. I asked for a copy of said agreement as I knew Indiana did not have a Department of Agriculture at the time. To this day I have not received an answer of any kind from Monsanto.

Farmers deserve to be notified of investigations through an honest process, and farmers who haven't planted patented seed deserve to be protected from unreasonable allegations when wrongly pursued. Most farmers have never seen the inside of a courtroom let alone a Federal Court House. These investigations can be expensive and emotionally stressful.

I hope Montana will follow Indiana and other states, like North Dakota, in passing a bill that provides farmers like me who are mistakenly targeted with seed patent investigations some protections of our rights as farmers. Montana should enact guidelines for patent holders to follow when collecting crop samples and pursuing patent infringement cases. All parties should be aware of the process and kept honest.

Sincerely,

David Runyon
3575 West 1150 South
Geneva, IN
46740